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APR 6 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

BY HAND

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Re: IB Docket No. 95-22
Market Entry and Regulation
of Foreign-affiliated Entities

Dear Mr. Caton:

Transmitted herewith on behalf of Univisa, Inc. are an original and nine copies of its Comments on the Commission's Notice of Proposed Rulemaking (FCC 95-53 rel. Feb. 17, 1995) in the above-referenced proceeding.

Respectfully submitted,

Barbara K. Gardner

Barbara K. Gardner

BKG/kkj
Enclosures

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BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of	)	
	)	
Market Entry and Regulation of Foreign-affiliated Entities	)	IB Docket No. 95-22
	)	RM-8355
	)	RM-8392

To: The Commission

COMMENTS OF UNIVISA, INC.

By: Norman P. Leventhal
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Its Attorneys

April 6, 1995

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SUMMARY

Univisa, Inc., a U.S. subsidiary of Mexican broadcaster Grupo Televisa, S.A. and a twelve percent owner of the Univision U.S. television stations, approves the FCC's effort to promote a more competitive global communications market. However, the proposed market access test, an apparent afterthought with respect to foreign investment in U.S. broadcast licensees, would be inappropriate and unworkable if applied to broadcasting.

The anticompetitive behavior that the market access proposal is intended to remedy does not exist in the broadcast context, by contrast with the international telecommunications market. In that market, usually controlled by a dominant or monopoly foreign carrier that functions as a gatekeeper for all international traffic originating and terminating in its nation, such a carrier can leverage its dominant position to discriminate in favor of a U.S. affiliate (and against other would-be U.S. entrants) in the provisioning and pricing of local access. But in the broadcast medium, since U.S. entrants to foreign markets face no monopoly-controlled facilities bottleneck through which they must pass in order to complete their broadcast transmissions, a dominant foreign broadcaster cannot leverage its market power to create competitive harm to the newcomer. Rather, the foreign broadcaster must compete in the open marketplace, rendering a market access test unnecessary.

Reciprocity is also unworkable in the broadcast context. Because alien ownership laws are complex, many nations will seem to have a more closed market than that of the U.S. in

some respects, but a more open one in others. Even drafting separate conditions for each nation is likely to be infeasible, since the numerous facets of each country's law make fair comparative assessment so difficult.

In lieu of a market access test, the FCC should adopt a more flexible approach in considering, under Section 310(b)(4) of the Communications Act, the public interest benefits of expanded alien participation in domestic broadcasting. In particular, the FCC should adopt a rebuttable presumption that companies controlling _any_ licensee subject to the statute may have up to 49 percent alien ownership, so long as aliens do not exercise _de facto_ control of the licensee. The FCC should consider permitting even greater levels of alien ownership and control by citizens of nations with which the U.S. has traditionally enjoyed friendly relations, since such nations present no national security risk.

Now anachronistic, Section 310(b) does not in any event reflect a general policy against foreign involvement in domestic communications facilities, but is based on national security concerns originating before the first broadcast station went on the air. If fear of foreign dominance of U.S. broadcasting were ever a legitimate governmental concern, it should no longer be, in view of the depth and diversity of the present-day U.S. communications marketplace.

Following the lead of the Department of Transportation, which permits up to 49 percent of the equity of domestic air carriers to be held by aliens, the FCC should permit up to 49 percent alien ownership of communications licensees.

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To: The Commission

COMMENTS OF UNIVISA, INC.

Univisa, Inc. ("Univisa"),[1/] by its attorneys, hereby submits its Comments with respect to the Commission's Notice of Proposed Rulemaking in the captioned proceeding (FCC 95-53 rel. Feb. 17, 1995) ("Notice").

Although Univisa agrees that the Commission should modify its criteria for making Section 310(b)(4) determinations so as to promote effective competition in the global market for

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1/ Univisa, a domestic corporation with its principal place of business in Los Angeles, California, is a wholly-owned subsidiary of Grupo Televisa, S.A. ("Televisa"), a company organized under the laws of the United States of Mexico whose controlling owners, directors and officers are Mexican citizens. Televisa, the leading producer of Spanish-language television programming in the world, owns television and radio broadcast stations and programming networks in Mexico, and through Univisa owns 12 and 25 percent interests respectively in the Univision Television Group Spanish-language television broadcast stations in the United States, and in the Univision network with which these television broadcast stations are affiliated.

communications services, Univisa believes that incorporating the Commission's proposed effective market access test as an element of the Section 310(b)(4) public interest analysis applicable to broadcast licensees is both inappropriate and unworkable. Instead, the FCC should establish a rebuttable presumption that companies controlling any licensee that is subject to the statute may have up to 49 percent alien ownership, so long as aliens do not exercise de facto control of the licensee. The Commission should provide even greater flexibility where alien owners are citizens of countries traditionally friendly to the United States.

I. WITH RESPECT TO BROADCAST LICENSEES, THE PROPOSED MARKET ACCESS TEST IS INAPPROPRIATE AND UNWORKABLE.

Univisa applauds the FCC's effort to promote a truly competitive global communications market, and thereby benefit United States consumers. But we suspect that the proposed market access test, well-developed in the Notice with respect to entry by foreign carriers into the domestic market, is little more than an afterthought with respect to its possible application to foreign investment in United States broadcast licensees. As is now shown, the behavior that the proposal is intended to remedy is inapplicable to broadcasting, and the test's implementation is administratively unworkable in the broadcast context as well.

A. Since Unlike Carriers, Broadcasters Need Not Interconnect With Foreign Providers of Communications Facilities, The Ability And Incentive Of Such Foreign Entities To Behave Anticompetitively Is Nonexistent In The Broadcast Medium, And The Market Access Test Is Unnecessary.

As the Commission correctly states, a necessary step toward achieving its primary goal of effective global competition is the prevention of anticompetitive conduct in the provision of international services or facilities.[2/] The proposed market access test will, the Commission believes, achieve this goal. But where such anticompetitive behavior does not exist in the first place, the market access test is simply irrelevant and unnecessary.

Because U.S. carriers seeking to enter foreign communications markets are dependent for the origination and termination of their telecommunications traffic on foreign carriers that hold dominant or even monopoly positions in their home markets, such foreign carriers potentially wield great power in terms of the provisioning and pricing of local access, as well as numerous related aspects of the interconnection process (such as numbering schemes). As the Commission points out, particularly where such a foreign carrier is affiliated with a U.S. carrier, the foreign carrier has the ability and the incentive to discriminate in favor of its affiliate and against

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2/ Notice at para. 28.

unaffiliated competing U.S. carriers, and to use its monopoly position to gain a competitive advantage in other markets worldwide.[3/]

It was to help prevent such anticompetitive conduct that the Commission devised its proposed reciprocal market access test. However, the agency itself recognizes that the proposed test is more appropriate in some telecommunications markets than in others. For example, while the Commission proposes to apply its market access test stringently in the market for international facilities-based services, it believes there is less need to regulate foreign carrier entry in the U.S. market for resale services, due to the lessened risk of anticompetitive harm in that context.[4/] Hence, the Commission will presume that there is no competitive harm in permitting unlimited foreign-carrier entry for switched resale, as well as for noninterconnected private line resale services.[5/] Similarly, the Commission proposes to continue its present policy of deregulation of the provision of enhanced services by foreign-owned service providers, since it believes that such forbearance "presents no substantial risk of competitive harm in the market

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3/ Id. at paras. 2, 28-29.

4/ Id. at para. 72.

5/ Id. at paras. 74, 76.

for such services," and will serve its "goal of promoting effective global competition."[6/]

In the international facilities-based telecommunications market, however, the Commission envisions a situation where U.S. carriers seek to enter a foreign market dominated by a foreign provider that has an affiliation with a U.S. carrier (such as an ownership interest in that carrier). Because the foreign carrier functions as a gatekeeper for all international traffic originating and terminating in that nation, including that of all U.S. carriers, it can leverage its dominant position to discriminate in favor of its U.S. affiliate in the provisioning, pricing and other terms of local access, as well as

> use [its] monopoly to gain a competitive advantage in other markets that are, or could be, competitive, including communications between its foreign home market and the United States, communications in the United States, and global network services. The foreign competitor . . . will . . . win customers, not because of its superior business acumen, responsiveness to customers, or technological innovation, but because of its protected status in its home market.

Notice at para. 29.

Such a scenario cannot occur in the broadcast medium, since U.S. entrants to foreign broadcast markets do not need the

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6/ Id. at para. 82.

facilities and services of any monopoly gatekeeper in the market they seek to enter -- rather, each broadcaster constructs its own standalone facilities. For example, Univisa's owner Grupo Televisa, S.A. enjoys a dominant position in Mexico as the owner and operator of television broadcast stations. But when the Mexican government recently auctioned certain government television channels to a new entrant, the winning bidder, Television Azteca, in which NBC is an investor, faced no Televisa-controlled facilities bottleneck through which it needed to pass in order to complete its broadcast transmissions: its facilities are independent of Televisa's. As a result, Televisa cannot leverage its market power to create competitive harm to NBC and Azteca; on the contrary, it must compete in the open marketplace with this new entrant for viewers and advertisers.

Thus, if the Commission were to apply a reciprocal market access test to determine the extent to which Televisa, through Univisa, may invest in the Univision group of U.S. television stations, such test would not perform its intended role of precluding anticompetitive behavior against U.S. entrants in Mexico such as NBC, since the broadcast medium provides no opportunities for such behavior in the first place.

Accordingly, just as it proposes to exempt carriers providing resale and enhanced services, the Commission should decline to apply its market access proposal to broadcasting.

B. In Any Case, Reciprocity Is Unworkable In The Broadcast Context.

Although the Commission has said it will not seek to achieve "mirror" reciprocity in applying its market access test to regulate the entry of foreign facilities-based carriers,[7/] even the task of determining what is comparable (as opposed to identical) U.S. and foreign market access will be almost impossible in the broadcast context. This is because Section 310(b), in combination with the Commission's implementing case precedents, regulates so many different facets of alien involvement in domestic broadcast licensees. The statute alone addresses: the permissible amount of direct economic ownership by aliens in a company holding a broadcast license; the permissible amount of alien voting ownership in a company holding a broadcast license; both of these types of ownership by the representative of an alien; alien directors of licensees; alien officers of licensees; the holding of a broadcast license by a foreign corporation; the extent to which a company holding a broadcast license may be owned economically or with respect to voting ownership by a foreign government, by its representative, or by a foreign corporation; and finally, each of the above issues with respect to a corporation controlling a licensee company.

7/ Id. at para. 41.

Commission case law has added additional regulation with respect to such matters as alien interests held in trusts,[8/] in limited partnerships,[9/] and in debt instruments.[10/]

Each foreign nation is likely to have an equally intricate pattern of regulating foreign entry into its broadcast markets, with the result that many nations will appear to have a more closed market than that of the United States in some respects, and a more open market in others. For example, under Section 310(b)(4), non-U.S. citizens may directly own or vote up to 25 percent of the capital stock of a company controlling a U.S. broadcast licensee without prior FCC approval. Under Mexican law, by contrast, non-Mexicans may own the economic rights to <u>more</u> than 25 percent of a television company's equity, but the law substantially limits the ability of non-Mexicans to vote such shares.

As a result, a uniform market access test would be very difficult to devise. Indeed, even drafting multiple sets of conditions to fit the particular legal characteristics of each foreign market is likely to be administratively infeasible, since

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8/ <u>Primedia Broadcasting, Inc.</u>, 3 FCC Rcd 4293 (1988).

9/ <u>Wilner & Scheiner</u>, 103 F.C.C.2d 511 (1985), <u>recon. in part</u>, 1 FCC Rcd 12 (1986).

10/ <u>Id.</u>, 103 F.C.C.2d at 519.

the numerous, different facets of each country's law make fair comparative assessment so difficult.

II. THE COMMISSION SHOULD ADOPT A MORE FLEXIBLE ALIEN OWNERSHIP POLICY FOR BROADCAST LICENSEES, PARTICULARLY FOR CITIZENS OF TRADITIONALLY FRIENDLY NATIONS.

Although Univisa does not believe that the Commission's proposed market access test should be applied in the absence of the anticompetitive behavior it is intended to foreclose, or that such a test is workable in the broadcast context in any event, we believe that the requirement of a separate Section 310(b)(4) public interest determination for every alien investment in domestic licensees serves no conceivable national security interest, artificially reduces the pool of qualified potential U.S. licensees by restricting foreign investment in domestic enterprises, and inhibits competition and resulting consumer benefits. In light of the developing global communications market and the resulting anachronistic nature of Section 310(b), the Commission should adopt a more flexible approach in considering the public interest benefits of expanded alien participation in domestic communications enterprises.

In particular, the Commission should adopt a presumption whereby, absent indicia of de facto alien control under existing FCC precedents, alien ownership of up to 49 percent of a company controlling any U.S. licensee will be deemed to be in the public interest under Section 310(b)(4). In addition, the Commission should consider an even more flexible policy with respect to investments by citizens of countries that have had a traditionally close and friendly relationship with the United States.

A. The Alien Ownership Restrictions Are Anachronistic And Unnecessary.

It is critical to understand that Section 310(b) of the Communications Act does not reflect a general policy against foreign involvement in United States communications facilities,[11/] but rather, as the Commission points out, represents an effort to minimize identifiable risks to national defense.[12/] Univisa therefore urges that where there is no national security risk, such as where the applicant is affiliated with a corporation owned and controlled by nationals of a strategic U.S. ally, there is no basis for invoking the policy.

The Radio Act of 1912, the first of three statutes to provide for the overall regulation of radio, limited the grant of radio licenses to citizens and domestic corporations because of concerns over potential telegraphic transmissions to other

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11/ Ventura Broadcasting Co. v. F.C.C., 765 F.2d 184, 194 (D.C. Cir. 1985).

12/ Notice at para. 16.

countries by foreign agents, especially in time of war or strained international relations.[13] National security concerns -- in particular, suppressing subversive communications during wartime, and breaking the foreign dominance of international communications facilities -- also pervaded the retention and expansion of alien ownership and control limitations when both the Radio Act of 1927 and the Communications Act of 1934 were enacted.[14]

Such concerns, however, reflect the technological infancy of radio communications, and the dependence of the military on radio in its then unsophisticated state. The current technologically advanced state of communications, including broadcasting, renders the alien ownership restrictions anachronistic and unnecessary. A more flexible approach on the

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13/ Radio Communication: Hearings on H.R. 15357 Before the House Comm. on the Merchant Marine and Fisheries, 62d Cong., 2d Sess. 70 (1912) (statement of Lieut. Commander David W. Todd, U.S. Navy); Radio Communication: Hearings on S. 3620 and S. 5334 Before the Subcomm. of the Senate Comm. on Commerce, 62d Cong., 2d Sess. 9, 36 (1912) (statement of Lieut. Commander Todd).

14/ 68 Cong. Rec. 2578 (1927) (statement of Sen. Burton Wheeler, noting that "idea of preventing alien activities against the government during the time of war" is presumptive basis for alien ownership restrictions of bill which became 1927 Radio Act); Federal Communications Commission: Hearings on S. 2910 Before the Senate Comm. on Interstate Commerce, 73d Cong., 2d Sess. 165-66, 170-71 (1934) (statement of Captain S.C. Hooper, U.S. Navy); To Amend the Radio Act of 1927: Hearings on H.R. 7716 Before the Senate Comm. on Interstate Commerce, 72d Cong., 1st Sess. 31-33 (1932) (statement of Captain Hooper).

Commission's part to alien participation in the communications media is therefore justified.

This is particularly so given the wealth of competitive video and other communications alternatives available to the U.S. public, a circumstance surely not imagined by even the most visionary policymakers of the 1930s, but of which the current Commission is fully aware.[15/] If fear of foreign dominance of U.S. communications facilities were ever a legitimate governmental concern, it should no longer be in view of the depth and diversity of the American communications marketplace.

B. Relief Should At Least Be Extended To Citizens Of All Friendly Nations.

As noted by the Commission, it has in the past waived the numerical limitations in Section 310(b)(4) with respect to "friendly" nations, that is, those that are not a national security concern.[16/] In today's world, the Commission would demonstrate sufficient deference to the national security background of Section 310(b) if it were to liberally exercise

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15/ See Notice at para. 102, noting "plethora of broadcast and other mass communications facilities available to the general public."

16/ Id. at para. 16.

Section 310(b)(4)'s discretionary authority on behalf of citizens of nations traditionally friendly to the United States.[17]

C. **Relief Must Be Extended To Broadcasters Irrespective Of Their Control Of Content.**

Despite the Commission's reluctance to liberalize its implementation of Section 310(b) on behalf of those who control the content of transmissions,[18] relief under Section 310(b)(4) should be extended to any qualifying licensee subject to that statute, including broadcasters. Indeed, Section 310's predecessors in the 1912 and 1927 Radio Acts were promulgated specifically to constrain foreign domination of non-broadcast communications. For example, the focus of the restrictions in the 1912 Act was ship-to-shore and transoceanic point-to-point, non-voice communications, not broadcasting: indeed, the first U.S. broadcast station was not licensed until 1921. Even in 1934, when the holding company restriction now embodied in Section 310(b)(4) was enacted, that provision's object was the international conglomerate International Telephone and Telegraph

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17/ Such nations include the United States' partners in the North American Free Trade Agreement, which was designed to eliminate trade barriers and promote fair competition among the U.S., Mexico and Canada.

18/ Notice at para. 18.

Co. ("ITT"), which had several alien directors but was a common carrier, not a broadcaster.[19]

Despite the distinction articulated in the present Notice, the Commission itself recently acknowledged that there is no basis for believing that alien ownership of common carriers is of less concern than that of broadcast facilities:

> Certain petitioners do contend that the threat posed by the alien ownership of cellular facilities is significantly less than the threat posed by the alien ownership of broadcast facilities. However, Section 310(b)(3) of the Act does not make such a distinction. Accordingly, the actual threat of any alien control may not be taken into consideration.

Continental Cellular, 6 FCC Rcd 6834, 6840 n.29 (1991), aff'd sub nom. Moving Phones Partnership L.P. v. F.C.C., 998 F.2d 1051 (D.C. Cir. 1993).[20]

19/ The proponents of a holding company restriction claimed that the lessons of the world war required the removal of any alien influence in American commercial communications, to promote readiness for a future war. See supra n.14 (citations to legislative history of Communications Act of 1934). The stations necessary to promote readiness for another war were, presumably, the transoceanic commercial point-to-point radiotelegraph stations controlled by entities such as ITT.

20/ See also Cristina Del Valle, 9 FCC Rcd 1004 (Deputy Chief, Licensing Div., Private Radio Bur. 1994) (public interest does not preclude aliens from holding licenses in the Interactive Video and Data Service ("IVDS")). Like (continued...)

In any event, there is no need to fear the transformation of U.S. broadcast stations into foreign propaganda machines: Section 706 of the Communications Act (47 U.S.C. § 606) gives the President sweeping powers to assume control of needed communications facilities during wartime or other national emergencies.

D. Expanded Alien Participation In United States Broadcast Companies Will Provide Significant Public Interest Benefits.

Trade barriers, which the alien ownership restrictions effectively are, limit competition.[21/] In particular, Section 310(b) makes it difficult for television broadcasters to compete with other video delivery systems, such as cable, which are not subject to limitations on alien ownership and control and which have the additional advantage of enjoying revenue not only from advertising, but also from subscriber fees. Relaxation of the alien ownership restrictions would help to reduce this disparity by providing broadcasters with new and additional sources of

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[20/] (...continued) broadcasters, IVDS licensees will select and disseminate video programming, albeit to customer-subscribers only.

[21/] See Statement of Chairman Reed E. Hundt on Section 310 of the Communications Act of 1934 Before the Subcommittee on Commerce, Trade, and Hazardous Materials, Committee on Commerce, U.S. House of Representatives, at 4 (Mar. 3, 1995) ("Section 310 has become a metaphor for a closed U.S. market").

capital investment already available to cable operators, thus assisting in assuring the survival of the broadcast industry.

The Commission is not alone in urging that communications regulation today should recognize global economic and political realities. Not long ago, the National Telecommunications and Information Administration ("NTIA") pressed for a reexamination of the implementation of Section 310(b). In its study entitled "Globalization of the Mass Media," NTIA urged the FCC to conduct a rulemaking to determine how to exercise its Section 310(b)(4) waiver authority more liberally in order to provide increased capital for U.S. broadcasters and encourage the opening of foreign broadcast markets to greater U.S. participation.

Noting that "absent a demonstrable need such as the protection of national security, foreign investment restrictions should be avoided, because they reduce efficiency in the marketplace and impede the introduction of new technologies," NTIA pointed out that "[i]n today's world, the risks posed by a foreign-owned broadcaster using its facilities to communicate with an enemy of the United States during wartime are remote."[22/] Thus, NTIA concluded that "the Section 310(b)

22/ Globalization of the Mass Media, NTIA Special Publication 93-290 at 85 (U.S. Department of Commerce, Jan. 1993).

restrictions no longer are needed for their original purposes."[23] And because "these restrictions in the U.S. broadcast market, at least as routinely and as conservatively applied as they currently are, provide no incentives for foreign governments to open their broadcast markets to greater foreign participation," NTIA proposed that the FCC commence a rulemaking "to liberalize its application of the current restrictions."[24] Univisa submits that, consistent with NTIA's view but without insisting on an inappropriate market access test, the Commission can and should promote the role of U.S. companies in the growing international communications market by exercising its discretion under Section 310(b)(4) in favor of broader alien participation at home.

In implementing an analogous statutory scheme restricting alien ownership, at least one other Federal regulatory agency has already done as Univisa suggests the Commission do. Section 101(16) of the Federal Aviation Act, 49 U.S.C. § 1301(16), requires that the president and at least two-thirds of the board of directors and other managing officers of a domestic air carrier be U.S. citizens, and that not more than 25 percent of the carrier's *voting* stock be owned or controlled by non-U.S. citizens. Historically, the Department of

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23/ Id. at 88.

24/ Id. at 74 (emphasis added), 75.

Transportation ("DOT"), and the Civil Aeronautics Board before it, have interpreted the statute to also require that a carrier in fact be under the actual control of U.S. citizens.[25/]

Recognizing that both new and existing air carriers increasingly sought to avail themselves of capital from foreign sources, DOT toward the beginning of the current decade "reexamined our application of the control test in order to reflect more accurately today's complex, global corporate and financial environment, consistent with the requirement for U.S. citizen control."[26/] As a result, DOT determined in 1991 that as a general rule or guideline, up to 49 percent of the total equity of a carrier could be held by non-U.S. citizens without automatically constituting control (total foreign *voting* equity still being subject to the 25 percent statutory limitation).[27/]

This is almost identical to the test that Univisa proposes: a presumption that up to 49 percent of the stock of a company controlling any Commission licensee subject to Section

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25/ Acquisition of Northwest Airlines, Inc. by Wings Holdings, Inc., Order 91-1-41, Docket 46371, 1991 DOT Av. LEXIS 55 at *5 n.5 (Jan. 23, 1991).

26/ Id. at *19.

27/ Id. at *19-20; see also Hutchinson Auto and Air Transport Co., Inc., Order 91-8-15, Docket 47535, 47534, 47690, 1991 DOT Av. LEXIS 556 at *22 & n.18 (Aug. 8, 1991) (subsequent history omitted).

310(b)(4) of the Communications Act may be owned or voted[28/] by aliens of any nationality, assuming there is no actual alien control. In other words, under Univisa's proposal the FCC, like the Department of Transportation, would make individualized determinations of actual control based on all the facts and circumstances, but would begin its analysis utilizing a rebuttable presumption that an entity with 49 percent alien equity ownership is not controlled by aliens.

Such case-by-case determinations pursuant to the Commission's Section 310(b)(4) discretion could also result, Univisa urges, in an occasional instance of actual control of a domestic licensee by aliens of nations traditionally friendly to the United States, since the statute's sole purpose of protecting the national security is not implicated in such a case. There is little need for a policy -- in today's multifaceted and diverse communications marketplace -- which inflexibly prohibits actual control of broadcast facilities by aliens of friendly nations (such as the United Kingdom, Mexico, Canada and others). There are simply too many avenues now available to reach the public (several thousand broadcast stations, over one hundred broadcast and cable networks, thousands of cable systems, numerous MMDS licensees, and now the advent of direct broadcast satellites) to

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28/ Unlike the Federal Aviation Act, the Communications Act permits agency discretion with respect to the amount of stock voted by aliens.

conclude that control by friendly foreign nationals of one, or even several, such facilities could in some fashion injure the national interest.

III. CONCLUSION.

For the foregoing reasons, the Commission should decline to consider effective market access as a factor in Section 310(b)(4) determinations involving broadcast licensees. Instead, it should adopt a rebuttable presumption that up to 49 percent of the stock of a corporation controlling any Commission licensee subject to Section 310(b)(4) of the Communications Act may be owned or voted by aliens of any nationality, assuming there is no actual alien control. In addition, the Commission should consider permitting even greater levels of alien ownership and control by citizens of nations with which the United States has traditionally enjoyed friendly relations.

Respectfully submitted,

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